

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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INDIANAPOLIS, INDIANA 46204-2764

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FILED

**COMPLAINT OF NUVOX COMMUNICATIONS
OF INDIANA INC., AGAINST SBC INDIANA
REGARDING ITS UNLAWFUL BILLING
PRACTICES FOR COLLOCATION POWER
CHARGES**

AUG 21 2003

INDIANA UTILITY
REGULATORY COMMISSION

CAUSE NO. 42398

**RESPONDENT:
INDIANA BELL TELEPHONE
COMPANY, D/B/A SBC INDIANA**

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

On August 19, 2003, the Petitioner, Nuvox Communication of Indiana, Inc., ("Petitioner" or "Nuvox") filed a *Motion for Confidential Treatment of Portions of August H. Ankum's Pre-Filed Direct Testimony* ("Motion") in this Cause. In its Motion, Nuvox indicates that certain SBC Collocation Guideline information contained in the direct testimony of Dr. Ankum was obtained by Nuvox from SBC through discovery. SBC indicated in its discovery response that the information was confidential and proprietary. Nuvox indicates that it has entered into a Non-Disclosure agreement with SBC Indiana and pledged therein to seek confidential treatment of information designated by SBC as confidential.

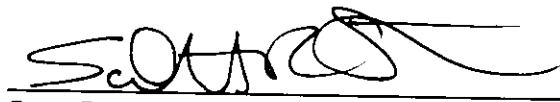
Nuvox states in its Motion that it assumes (but does not agree) that SBC contends this information constitutes a trade secret as defined by Ind. Code (IC) 24-2-3, as the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by other persons who could obtain economic value from its disclosure or use. The Petitioner's Motion is supported by the Affidavit ("Affidavit") of August H. Ankum. The Affidavit has been placed in the Commission's file in this Cause and is hereby incorporated by reference.

170 IAC 1-1.1-4, which governs the submission of confidential or privileged information to the Commission, requires the applicant to apply for a finding by the Commission that the information is confidential. The application must be accompanied by the sworn statement or testimony of a party that describes: 1) the nature of the confidential information; 2) the reasons why the information should be treated as confidential pursuant to IC 8-1-2-29 and IC 5-14-3; and, 3) the efforts the party has made to maintain the confidentiality of the information.

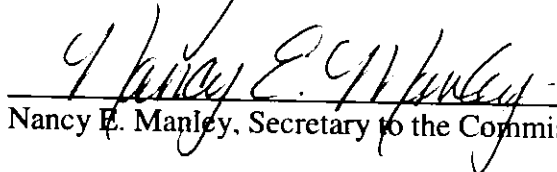
The Presiding Officers, having reviewed the information contained in the Petitioner's Motion and Affidavit, find that the Petitioner, other than citing to obligations that are part of its Non-Disclosure Agreement with SBC Indiana, has not (and perhaps cannot) accurately described the efforts that SBC Indiana has made to maintain the confidentiality of the information or why the information should be held as confidential, as required under 170 IAC 1-1.1-4. Therefore, we find that there is not a sufficient basis under our rules for a preliminary finding that confidential procedures are appropriate and should be followed concerning the confidential information to be submitted by the Petitioner. Accordingly, we hereby find that the Petitioner should file an affidavit, prepared by SBC Indiana, in support of the Petitioner's Motion on or before August 29, 2003.

IT IS SO ORDERED.


Judith G. Ripley, Commissioner


Scott R. Storms, Chief Administrative Law Judge

Date: August 21, 2003


Nancy E. Manley, Secretary to the Commission